

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3136/1dn
JTK:wlj:rs

August 12, 2009

Representative Roys:

1. Although I have not changed the wording of the proposed compact because I recognize that in order for it to be effective, all participating states must agree to the same wording, I note that in article III the fifth paragraph is difficult to follow. It appears to want to say that in making our determination of the national popular vote total, we must use the determinations of the other states regarding the numbers of votes cast in those states as of the federal reporting deadline. However, the syntax is awkward, and I'm not sure how this will be interpreted.
2. Also, if we must wait until the federal reporting deadline to make our determination, it will be difficult to have our presidential electors vote before that day. Currently, federal and state law require the electors to meet on the first Monday after the second Wednesday in December [3 USC 7 and s. 7.75 (1), stats.], but the deadline for receipt of their ballots appears to be the fourth Wednesday in December [3 USC 12].
3. In addition, it is possible that it will not be clear who has won the presidential vote in every state by the fourth Wednesday in December. In a close election, it's possible that the results could still be in litigation on that date.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778